



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|------------------------------|------------------------|
| 10/686,798 | 10/16/2003 | Richard A. Sunshine | US20000055-1 | 7931 |
| 173 7590 10/09/2007 WHIRLPOOL PATENTS COMPANY - MD 0750 500 RENAISSANCE DRIVE - SUITE 102 ST. JOSEPH, MI 49085 | | | EXAMINER PERRIN, JOSEPH L | |
| | | | ART UNIT 1792 | PAPER NUMBER |
| | | | MAIL DATE 10/09/2007 | DELIVERY MODE PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/686,798

Applicant(s)

SUNSHINE ET AL.

Examiner

Joseph L. Perrin, Ph.D.

Art Unit

1746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 11-49 is/are pending in the application.
- 4a) Of the above claim(s) 2-9 and 25-44 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 11-24 and 45-49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Examiner's Comments

1. Initially, the Examiner thanks Applicant for pointing out the typographical error in reciting the patent number of the DREHER reference and for correctly assuming the DREHER reference was to DE 4228469 given the content in the body of the rejection and the fact that there is only one DREHER reference cited.

Response to Arguments

2. Applicant's arguments filed 10 August 2007 have been fully considered but they are not persuasive.

3. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

4. Regarding the §103 rejection over COTTON and DREHER, applicant argues that COTTON does not disclose an integrated cabinet assembly or a plurality of panels defining a plurality of discrete places. The Examiner disagrees. Firstly, the claimed language of "integrated" and "discrete space" are significantly broad in scope and are not given a limiting definition in applicant's original disclosure as filed. Thus, the claimed language is construed to read significantly broad on literal definitions with respect to the level of one skilled in the art. As best understood from the original

Art Unit: 1746

disclosure as filed and literal dictionary definition (www.dictionary.com), to integrate means to unite or to combine. Manifestly, the cabinet assembly of COTTON reads on being united or combined as evidenced by at least the Figures of COTTON. Secondly, regarding panels, it is common knowledge that laundry appliances and associated structures/cabinets are comprised of "panels" and COTTON fairly describes the use of such panels as cited in the rejection and no such patentable distinction in the use of panels is apparent. Regarding applicant's recitation of the "discrete space" limitations with the intended use of housing a washer and dryer, the Examiner notes that the structure as claimed reads on simply a cabinet structure with voids and does not positively recite a washer and dryer. Not only does COTTON teach a cabinet with spaces fully capable of performing the claimed intended use of housing a washer and dryer, COTTON provides clear teaching of a cabinet structure including a washer and dryer inside the integrated cabinet comprising a plurality panels. Note that a washing machine with external cabinet reads on the claimed invention of a cabinet capable of housing a washing machine since the washing machine components would be completely housed in the cabinet structure. The Examiner notes that the law of anticipation (i.e. the citation of a reference to disclose the all of the claimed limitations such as the cabinet of COTTON) does not require that the reference teach what Applicant is claiming, but only that the claims "read on" something disclosed in the reference. *Kalman v. Kimberly-Clark Corp.*, 713 F.2d 760, 772, 218 USPQ 781, 789 (Fed. Cir. 1983), cert. denied, 465 U.S. 1026 (1984) (and overruled in part on another issue), *SRI Intel v. Matsushita Elec. Corp. Of Am.*, 775 F.2d 1107, 1118, 227 USPQ

577, 583 (Fed. Cir. 1985). Accordingly, recitation of COTTON clearly reads on applicant's cabinet as argued and claimed.

Regarding DREHER, applicant points out the teachings of a slidable shelf in a washing machine and argues that "Dreher does not correct the deficiencies of Cotton". This is not persuasive because COTTON is not deemed deficient.

Accordingly, the combination of old elements to arrive at applicant's claimed invention in the rejection over COTTON and DREHER is maintained for reasons of record and those discussed above.

5. Regarding the §103 rejection over BALTES and DREHER, applicant argues that BALTES does not disclose the claimed cabinet citing column 7, lines 19-25 which state: "It is of particular advantage that the laundry drying closet according to the invention because of its small depth and its ideal installation dimensions may be installed in modular kitchens or, e.g., in bathrooms at a place above the tub, whereby the depth, height and width dimensions correspond to the standard dimensions of modular components" (emphasis added). Applicant further points to "exemplary dimensions for the drying closet are 350 mm (13.8 inches) deep by 1150 mm (45.3 in) tall by 600 mm (23.6 in) wide." Firstly, while there may be an exemplary embodiment, there is no limiting definition of the depth of BALTES nor is there a limiting definition claimed by applicant which precludes the structure fairly taught by BALTES. Moreover, the excerpt on which applicant relies clearly states "standard dimensions" corresponding to modular components. Given the broadly claimed recitation of a cabinet with discrete spaces (i.e. voids) with the intended use of housing a washer or dryer there is no limiting definition

Art Unit: 1746

claimed to preclude the recitation of BALTES. It is fundamental that an apparatus claim defines the structure of the invention and not how the structure is used, or what materials the structure houses. *Ex parte Masham*, 2 USPQ2d 1647, 1648 (BPAI 1987). See also *In re Yanush*, 477 F.2d 958, 959, 177 USPQ 705,706 (CCPA 1973); *In re Finsterwalder*, 436 F.2d 1028, 1032, 168 USPQ 530, 534 (CCPA 1971); *In re Casey*, 370 F.2d 576, 580, 152 USPQ 235,238 (CCPA 1967). As long as the cabinet discrete spaces/voids of BALTES are capable of housing any size (large or small) washer or dryer, the prior art apparatus meet the requirements of the claimed feature. Applicant has not established on this record any structural distinction between apparatus within the scope of the rejected claims and the apparatus fairly described by BALTES, and no such structural distinction is apparent. Moreover, it would have been common sense to one having ordinary skill in the art that the modular cabinet of BALTES is fully capable of housing conventionally known and used appliances for said modular spaces. This can be further evidenced by the unnumbered appliance clearly shown in Figure 13 of BALTES. Thus, the position is maintained that one having ordinary skill in the art would reasonably consider the teachings of the integrated cabinet structure in BALTES, which has a dryer closet with fan and plural cabinet voids capable of housing a washer or dryer, to read on applicant's broadly claimed integrated cabinet assembly with voids.

Regarding the illustration of Figure 13 of BALTES, applicant argues that there is no information "about the structure surrounding the drying closet." An obviousness determination is not the result of a rigid formula disassociated from the consideration of the facts of a case. Indeed, the common sense of those skilled in the art demonstrates

Art Unit: 1746

why some combinations would have been obvious where others would not. *Leapfrog Enterprises Inc. v. Fisher-Price Inc.*, 82 USPQ2d 1687 (Fed. Cir. 2007); see also *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385 (U.S. 2007). Clearly, one having ordinary skill in the art would understand the three-dimensional nature of Figure 13 in BALTES and the discrete spaces associated therewith, as well as the capability of performing the claimed intended use of housing a conventional washer and dryer within the scope of the claimed invention. The exact dimensions of the cabinet in BALTES are not necessary to formulate an obviousness rejection as no such dimensions are fairly claimed by applicant, and a common sense determination within the level of ordinary skill in the art must be taken into consideration with respect to the broad scope of the claims and what is known in the art. In this case, one having ordinary skill in the art would immediately recognize the capability of housing a washer and dryer in the voids of the cabinet disclosed by BALTES, particularly given the immense breadth of the voids as claimed. It is common knowledge that washers and dryers are of various shapes and sizes ranging from large commercial appliances to small portable appliances. Thus, it is of no moment that BALTES discloses a modular cabinet designed for modular components but rather that one having ordinary skill in the art would immediately recognize that the discrete spaces/voids in BALTES are capable of housing any washer and dryer. Clearly, such structure is reasonably conveyed in the disclosure of BALTES and the cabinet of BALTES reads on applicant's claimed cabinet.

Regarding DREHER, applicant points out the teachings of a slidable shelf in a washing machine and argues that "Dreher does not correct the deficiencies of Cotton". This is not persuasive because BALTES is not deemed deficient.

Accordingly, the combination of old elements to arrive at applicant's claimed invention in the rejection over BALTES and DREHER is maintained for reasons of record and those discussed above.

6. Regarding the §103 rejection of dependent claims 17-19 over COTTON or BALTES in view of RICE as evidenced by BALTES and CHAN, applicant argues that the claims depend from claim 1 and are not obvious for reasons of same indicated for claim 1. This is not persuasive because the rejection of claim 1 is maintained for reasons of record.

Claim Rejections - 35 USC § 103

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

8. Claims 1, 11-12, 14-16, 20, 22-24, 45-46, 48 & 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over COTTON in view of DREHER. COTTON teaches an integrated cabinet assembly having panels (col. 2, line 52 *et seq.*) defining plural spaces including a washer housed in a washer space (59) and a clothes dryer housed in a dryer space (55) readable on collectively defining a space and being in a side-by-side configuration, and another dryer housed in another drying space (see, for instance, Figure 6). Re claim 14, COTTON further discloses in Figure 6 that the dryers have an

Art Unit: 1746

open front side and doors (cover panels). Re claim 20, the horizontal dryer drum reads on perforated horizontal surface. Re the frame and panel limitations, the Examiner takes the position that a frame to support the cabinet is implicitly taught, such being well recognized by one having ordinary skill in the art to be common knowledge in the cabinet making art, and is well within the level and knowledge of one having ordinary skill in the cabinet making art. While COTTON does not expressly disclose the dryer having an air moving device, the position is taken that a dryer having an air moving device is an implicit teaching in the explicit teaching of a dryer and such being common knowledge in the appliance art.

COTTON appears to disclose each and every structural limitation of the claimed invention with the exception of slidable shelves and/or drawers. Re claims 1, 11-12, 15-16 & 22, DREHER teaches that it is known to provide a household appliance cabinet with a slidable drawer with a flat supporting surface (Figure 4; readable on slidable shelf) and a slidable shelf (Figure 5) for the purpose of providing laundry supports to ease laundry operations (see also Abstract). Therefore, the position is taken that it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the integrated laundry cabinet of COTTON with slidable drawers/shelves for the known purpose of easing laundering operations. Moreover, there would have been a reasonable expectation of success in providing the cabinet assembly of COTTON with such drawers/shelves since both are in the same field of endeavor and the addition of such drawers/shelves would be a simple modification well within the knowledge generally available to one in the appliance manufacturing art.

Art Unit: 1746

Regarding a plurality of drawers in claim 23, the position is taken that it would have been obvious to one having ordinary skill in the art at the time the invention was made to supply plural drawers in order to achieve the desired drawer spaces since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8; *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960).

9. Claims 1, 11-16, 20-24 & 45-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over BALTES in view of DREHER. BALTES discloses an integrated cabinet comprising plural discrete spaces and a dryer 1 having an air moving device 11 arranged to deliver air to the dryer space via an inlet and outlet, interconnecting panels on the cabinet which read on "exterior decorative fascia panels", hanger rods 14/30, an open front with cover panel (door 7), the hanging device with rods 14/30 being slidable inward and outward (see Figures 5-6) and forming a plurality of horizontal stacked surfaces with a plurality of perforations which permit air to pass through to the space, and the cabinet being formed by panels (see Figure 13) which implicitly discloses the cabinet having a frame structure for fastening the panels thereto (see Figures 1-2, 13 and relative associated text). Re claim 48, the single space adjacent dryer 1 (see Figure 13) reads on the claimed combination of spaces to form a single space since the adjacent single space appears to be fully capable of performing the claimed intended use. (see also above regarding applicant's claimed "discrete space" limitations). The intended use of the spaces for a "washer" and "clothes dryer" are not afforded

significant patentable weight (see intended use discussion above). A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In the instant case, the integrated laundry assembly in Figure 13 of BALTES contains discrete spaces which are fully capable of housing a "washer" and a "clothes dryer". This would be readily evident to one having ordinary skill in the art. Furthermore, the Examiner notes that it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

BALTES appears to disclose each and every structural limitation of the claimed invention with the exception of slidable shelves and/or drawers in the appliance cabinet. Re claims 1, 11-12, 15-16 & 22-24, DREHER teaches that it is known to provide a household appliance cabinet with a slidable drawer with a flat supporting surface (Figure 4; readable on slidable shelf) and a slidable shelf (Figure 5) for the purpose of providing laundry supports to ease laundry operations (see also Abstract). Therefore, the position is taken that it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the integrated laundry cabinet of COTTON with slidable drawers/shelves for the known purpose of easing laundering operations. Moreover, there would have been a reasonable expectation of success in providing the cabinet assembly of COTTON with such drawers/shelves since both are in

Art Unit: 1746

the same field of endeavor and the addition of such drawers/shelves would be a simple modification well within the knowledge generally available to one in the appliance manufacturing art. Regarding a plurality of drawers in claim 23, the position is taken that it would have been obvious to one having ordinary skill in the art at the time the invention was made to supply plural drawers in order to achieve the desired drawer spaces since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8; *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960).

10. Claims 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over COTTON or BALTES in view of RICE (previously cited) as evidenced by BALTES and CHAN. Recitation of SANKA and BALTES are repeated here from above. Although SANKA and BALTES do disclose a drying space in the cabinet, SANKA and BALTES does not expressly disclose shoe dryers. RICE teaches that it is well known to dry hollow articles such as boots and gloves using dryers by inserting heated air into the articles (col. 1, line 13 *et seq.*) and further discloses a portable dryer for such hollow articles with convenient portability and storage, the portable dryer having a bottom support 134, a stem portion 22 for insertion into the hollow article to be dried, an air flow outlet at the end of the stem 116/117, and an air moving device 16 (see col. 1, lines 7-11 & Figures 1-2, 6, and relative associated text). Therefore, the position is taken that a person of ordinary skill in the art at the time the invention was made would have been motivated to modify the drying cabinet of SANKA and BALTES with the portable shoe

Art Unit: 1746

dryers of RICE for the purpose of improved, more efficient drying of hollow articles such as shoes. The combining of the common knowledge washing/drying cabinet components of SANKA/BALTES and RICE to arrive at applicant's integrated laundry center would be within the level and skill of one having ordinary skill in the art at the time the invention was made in order to provide a laundry center with comprehensive washing and drying functionality. This can be evidenced by BALTES which discloses a common knowledge drying component integrated in a multi-spaced cabinet system. Such integration can also be evidenced, for instance, by CHAN which teaches that it is well known in the art to provide a modular cabinet system which can be constructed in various combinations with plural discrete spaces of various sizes, shapes and drawers as well as duplicate parts to form an integrated cabinet assembly (see, for instance, the abstract and Figures). Moreover, the courts have long held that forming in one piece an article which has formerly been formed in multiple pieces involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893); *In re Larson*, 340 F.2d 965, 968, 144 USPQ 347, 349 (CCPA 1965).

Accordingly, the position is taken that forming a multi-spaced laundry cabinet with the common knowledge functional components of COTTON/BALTES and RICE would be well within the level and knowledge of one having ordinary skill in the art at the time the invention was made and that there would be a reasonable expectation of success in combining the known components of the analogous art references to arrive at applicant's claimed invention.

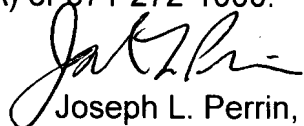
The Examiner notes that the record is silent with respect to any objective evidence regarding secondary considerations (i.e. objective evidence of non-obvious such as unexpected results).

Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
12. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.
13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph L. Perrin, Ph.D. whose telephone number is (571)272-1305. The examiner can normally be reached on M-F 7:00-4:30, except alternate Fridays.
14. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael E. Barr can be reached on (571)272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1746

15. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Joseph L. Perrin, Ph.D.
Primary Examiner
Art Unit 1746

JLP